THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.23160 of 2006

DATED: 21-09-2007.

Between:

Smt. Vemasani Vanajakshamma

.. PETITIONER

And

Union of India, represented by Deputy Secretary, F.F.Division, Ministry of Home Affairs (Hyd. Cell) Lok Nayak Bhavan, Khan Market, New Delhi, and others.

.. RESPONDENTS

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.23160 of 2006

ORDER:

The matter is appearing under the caption "Interlocutory".

2. Heard both the counsel and at the request of both the counsel, the matter is being disposed of finally.

3. The writ petition is filed for a writ of Mandamus to declare the action on the part of the respondents in not sending the petitioner modified pension order as requested by her in the letter, dated 01.07.2006, addressed to the 2nd respondent as arbitrary, unconstitutional and against the principles of natural justice, and consequently, direct the respondents to forward the modified sanction order to the petitioner without any further delay, and to pass any such suitable order.

4. In the affidavit filed in support of the writ petition, the petitioner stated that she is a freedom fighter having participated in the armed struggle and sabotage activities against the tyrannical Government of erstwhile Nizam State of Hyderabad, during the period popularly called as "Rajakar Movement" i.e., during the years 1947-48. The petitioner further submits that responding to the call given by the Hyderabad State Congress during the freedom struggle, she worked against the Nizam Government for the integration of Hyderabad State into the Union of India, having hoisted the Indian National Flag at Madupalli, Kalakota, Motamarri etc. areas. She has cut and destroyed toddy and Sendhi Trees in Kalakota, Allapadu and Allinagaram villages of Khammam District. When she apprehended arrest by the

Nizam police against the said acitivities, she went underground and continued the movement. Accordingly, the petitioner went underground and joined the congress border camp at Machinenipalem Village of Nandigama Taluq, Krishna District and she received arms training at Paritala Training Centre and participated in the activities like cutting the telephone lines, removing fish plates between Madhira and Yerupalem Station, derailed goods train by placing dynamites underneath the railway track between Yerupalem and Gangineni stations. She has also participated in the attacks on customs Nakha at Madupalli and Kalakota villages.

It is also stated that placing all the testimony to substantiate the above said claim, the petitioner placed a representation along with prescribed form duly filled in along with all the relevant documents addressing to the 1st respondent for the claim and benefit of the enshrined policy and scheme of Government popularly called as Swatantra Samman Scheme, 1980, which is meant for the victims who are freedom fighters of the above said Razakar movement. Since, the petitioner is lawfully entitled to claim the benefits flowing out of the said policy and scheme, she has made her representation along with submission of her application and relevant documents seeking grant of pension under the said scheme. The 5th respondent herein forwarded her case to the 4th respondent for sanction of Freedom Fighter Pension.

It is also further stated that, while things stood so, the petitioner has received a letter, dated 23.02.2004, from the 2nd respondent, wherein, it was stated that the 2nd respondent was directed to convey the sanction of the President to grant provisional pension at Rs.3,000/- per month + Dearness relief from 19.08.2003 onwards to her and in the very same letter, it was also stated that she will be drawing pension through State Bank of Hyderabad, Wyra Branch, Khammam District

vide A/c.No.OSD-202913 and she was eager to receive her benefit of pension amount, but till date, no amounts were credited to her account in respect of the said pension.

It is also further stated that the petitioner was surprised to note in the sanction order that her pension is granted under Family Pension, instead of Freedom Fighters Pension, and in order to rectify the said mistake, she has made out a representation through letter, dated 01.07.2005, to the 1st respondent, wherein she requested the 1st respondent to rectify the said mistake and to forward to her the corrected copy along with pension payment order and identification documents, but till date no communication was received by her as to said request made by her for modified sanction order. Since she is at the fag end of her life suffering with bodily ailment and other aging problems and she is eagerly waiting to receive the benefits under the said scheme, she has made several representations and correspondence to the respondents to expedite the matter, but in vain. She further submits that she is entitled to the Freedom Fighters Pension, but due to the negligent attitude of the respondents, she is deprived of her right to get her said pension during her life time, and hence, she approached this Court.

5. The counsel for the petitioner had pointed out the proceedings No.112/38/94-FF(HC)(D), Government of India/Bharat Sarkar, Ministry of Home Affairs/Grill Mantrlaya and would maintain that under Clause (5) of it, it was specified that the following documents were received from the applicant, wherein again under sub-clause (v), it is mentioned as follows:

> "Affidavit on Non-Judicial Stamp paper about her status as widow of freedom fighter indicating date of birth and educational qualification etc."

6. It is stated that the writ petitioner is a freedom fighter and her status cannot be shown as a widow of freedom fighter and evidently, this is a mistake. The same is hereby recorded.

7. In view of the facts and circumstances, since, it is stated that a representation of the petitioner, in detail, dated 01.07.2005, is pending before the 1st respondent, the 1st respondent is directed to dispose of the same in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above direction, the writ petition is disposed of. No order as to costs.

(P.S.NARAYANA,J)

Dt.21.09.2007

v v